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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/10
 LAST UPDATED 02/01/10 HB 56/aHENRC

SPONSOR Nunez

SHORT TITLE NMFA Water Fund Projects SB _____

ANALYST Kehoe

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
(\$29,200.0)	(\$20,600.0)	(\$21,500.0)	Recurring	Severance Tax Bond Capacity
\$29,200.0	\$20,600.0	\$21,500.0	Recurring	Water Project Fund
	(\$4,000.0)	(\$4,000.0)	Recurring	Water Trust Fund
	\$4,000.0	\$4,000.0	Recurring	Water Project Fund

(Parenthesis () Indicate Revenue Decreases)

Relates House Bill 40

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)
 New Mexico Environment Department (NMED)
 Department of Finance & Administration (DFA)

SUMMARY

Synopsis of HENRC Amendment

House Energy and Natural Resources Committee amendments 1 through 9 provide technical revisions to the bill by changing all “storage, conveyance and delivery” language to “conservation, treatment, recycling or reuse.” The language change conforms to provisions of the Water Finance Act.

Synopsis of Original Bill

House Bill 56 authorizes the New Mexico Finance Authority (NMFA) to make loans or grants from the water project fund for 61 qualifying projects on terms and conditions established by the Water Trust Board (WTB) and NMFA.

FISCAL IMPLICATIONS

Laws 2003 (Chapter 134) requires the Board of Finance to authorize and issue bonds for 10 percent of the severance tax bond capacity each year for deposit in the water project fund.

The 10 percent set-aside of severance tax bond capacity for FY10 will provide approximately \$29.2 million to the water project fund for eligible water projects. The forecast in future years for 10 percent of severance tax bond capacity will be approximately \$20.6 million in FY11 and approximately \$21.5 million in FY12. The value of the 10 percent of severance tax bond capacity can change from year to year depending on oil and gas revenues.

Laws 2006, Chapter 109, provided for the transfer of \$40 million from the general fund at the beginning of fiscal year 2007 to the water trust fund created by the Water Finance Act.

According to the constitutional provision creating the water trust fund approved in November 2006 and in accordance with state law, on July 1, 2008 for FY09 and each fiscal year thereafter, an annual distribution shall be made from the water trust fund to the water project fund pursuant to state law. The distribution is to be appropriated by the Legislature only for water projects consistent with a state water plan and as otherwise provided by law to support critically needed projects that preserve and protect New Mexico's water supply.

Proceeds from severance tax bonds may not be used to pay indirect project costs, and any unexpended balance from proceeds of severance tax bonds issued for a water project shall revert to the severance tax bond fund within six months of completion of the water project.

Section 72-4A-8 of the Water Finance Act provides that on July 1 of each fiscal year an annual distribution will be made from the water trust fund to the water project fund in the amount of \$4 million until the amount is less than an amount equal to 4.7 percent of the average of the year-end market value of the water trust fund for the immediate preceding five calendar years.

Laws 2005 (Chapter 293) certifies 10 percent of all funds in the water project fund (approximately \$2.9 million in FY10) may be allocated to the Office of State Engineer (OSE) to be used for adjudication. Of the OSE 10 percent, 20 percent (approximately \$580,000) will go to the Administrative Office of the Courts for adjudication purposes.

SIGNIFICANT ISSUES

The water project fund and water trust board were created by the Water Finance Act. According to the Act, once authorized by the Legislature, the water trust board reviews all projects and determines qualifying entities and projects for consideration of loans or grants from the water project fund. Soon after the 2010 Legislative Session adjourns, the WTB will review all projects authorized by the Legislature for funding from the 2010 distribution to the WPF. Eligible water projects pursuant to the Water Finance Act are defined as those involving: 1) the storage, conveyance or delivery of water to end-users; 2) the implementation of federal Endangered Species Act collaborative programs; 3) the restoration of watersheds; 4) flood prevention; 5) conservation; or 6) for recycling, treatment or reuse of water.

According to NMFA, the WTB received 62 applications requesting financial assistance from WPF. After reviewing and evaluating the applications, the WTB recommends 61 qualified entities to request legislative authorization for financial assistance. The total amount requested for the projects contained in this bill is approximately \$118.3 million.

ADMINISTRATIVE IMPLICATIONS

The NMFA is responsible for administering the projects recommended by the water trust board from the water project fund and is responsible for monitoring and ensuring proper reversions.

RELATIONSHIP

House Bill 40 requires the Board of Finance of the Department of Finance and Administration to void the authorization of severance tax bond capacity of approximately \$5.9 million previously appropriated to the water project fund administered by the New Mexico Finance Authority. The bill further proposes the severance tax proceeds in the same amount be appropriated to the New Mexico Environment Department (NMED) and authorizes NMED to make a grant in the same amount to the City of Gallup for a water project in McKinley County.

LMK/mt